THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.8563 of 2000

DATED: 03.10.2007

Between:

B. Munirajulu and others

Petitioners

And

District Collector, Chittor District & others

Respondents

ORDER:

1 The case of the petitioners is that Ac.0-96 cents in S.No.676/1 of Puthalapattu village was a market place, and the area where the market is being held got reduced to Ac.0-49 cents because of the

construction of the Panchayat office, Primary Health Center and Milk Center and even then the respondents are trying to alienate a part of the remaining Ac.0-49 cents also in favour of third parties under the guise of augmenting the resources of the Panchayat, and if the small area of Ac.0-49 cents left for holding of the public market is alienated the area gets congested and it would be difficult for the vendors in the market to hold the market and so the respondents may be restrained from alienating any part of the land in S.No.676/1 of Puthalapattu village.

2 On behalf of the respondents 4th respondent filed his counter affidavit admitting that public shandi was being run from several years in Ac.0-96 cents of S.No.676/1 of Puthalapattu village and that Ac.0-30 cents thereof was used for construction of a PACS buildilng, Ac.0-12 cents for construction of government hospital building and Ac.0-05 cents for construction of milk center building and Ac.0-47 cents is left for shandi and that the respondents are proposing to auction an extent of Ac.0-7 ½ cents to rehabilitate vendors who, as per the instructions of the Collector, who after noticing the fact that the hawkers are encroaching into the road margin and congesting the road, directed their eviction and that the proposed leasing of Ac.0-7 ½ cents would not in any way cause hardship to anybody and in that area steel bunks measuring 10 X 10 feet would be set up and they would be put to public auction and so petitioners are not entitled to any relief.

3 The contention of the learned counsel for the petitioners is that in view of Section 55 of the Panchayat Raj Act, the property should be

used only for the benefit of the villagers and in view of the fact that the area where the shandi is to be held is already reduced due to the construction of several buildings, if any further constructions are allowed there, the people who are holding shandi will be put to any amount of inconvenience and so the respondents may be restrained from holding the auction. The contention of the learned standing counsel for the Panchayat Raj is that since the land being put to public auction is for construction of steel bunks of 10 X 10 feet each and that area in which the steel bunks are to be constructed is only Ac.0-7 ½ cents, no inconvenience would be caused to the vendors in the shandi and that the proposed construction would augment the resources of the Panchayat and since the Collector is empowered to accord sanction for transfer of the land belonging to the Gram Panchayat and since this petition is filed only with a view to cause inconvenience to the Panchayat, petitioners are not entitled to any relief.

4 It has to be stated that on 09.05.2000 when the Writ Petition came up for hearing, a learned Judge granted interim injunction against the respondents restraining them from proceeding with the proposed auction. Subsequently, on a petition filed for vacating the stay, another learned Judge by his order dated 23.4.2002 dismissed the petition for vacating the interim injunction and made the interim order absolute.

5 The fact that the original area of the shandi was Ac.0-96 cents and it dwindled to Ac.0-47 cents due to coming up of several buildings thereon is admitted in the counter affidavit filed on behalf of the

respondents. I find force in the contention of the learned counsel for the petitioners that in the event of the proposed auction being allowed and if new constructions are allowed to come up there, the area already dwindled would further get reduced and cause inconvenience to the hawkers and also the general public. If the area of the shandi is further reduced, public would definitely get inconvenience and it would not be in the interest of general public to allow the area of shandi to get further reduced, more so because the respondents have not produced the blue print of the bunks to be constructed and the area to be occupied by them.

6 In these circumstances, I am of the considered opinion that permitting the respondents to alienate any part of the land in S.No.676/1 of Puthalapattu village would not be in the interest of the public and so the respondents are restrained from alienating any part of the land in S.No.676/1 of Puthalapattu Village by way of lease or otherwise.

7 In the result, the writ petition is allowed. Parties are directed to bear their own costs.

C.Y.Somayajulu, J.

03-07-2007

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